

SENATE BILL No. 455

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-5-15; IC 11-12; IC 11-14-4-3; IC 12-13-5-2; IC 15-5-1.1-15.1; IC 25-1; IC 25-22.5-5-2.5; IC 25-23.5-5-8; IC 25-27.5-4-3; IC 31-14; IC 31-16-12-6; IC 31-17-4-8; IC 31-37-19-5; IC 35-38-2.5-6; IC 35-41-1-4.6; IC 36-10-2-4.

Synopsis: Community restitution. Changes references in the Indiana Code from "community restitution or service" to "community restitution".

Effective: July 1, 2001.

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January 18, 2001, read first time and referred to Committee on Judiciary.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 455

A BILL FOR AN ACT to amend the Indiana Code concerning sentencing.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-30-5-15, AS AMENDED BY P.L.32-2000,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 15. (a) In addition to any criminal penalty
4 imposed for an offense under this chapter, the court shall:

5 (1) order:

6 (A) that the person be imprisoned for at least five (5) days; or

7 (B) the person to perform at least thirty (30) days of
8 community restitution; ~~or service~~; and

9 (2) order the person to receive an assessment of the person's
10 degree of alcohol and drug abuse and, if appropriate, to
11 successfully complete an alcohol or drug abuse treatment
12 program, including an alcohol deterrent program if the person
13 suffers from alcohol abuse;

14 if the person has one (1) previous conviction of operating while
15 intoxicated.

16 (b) In addition to any criminal penalty imposed for an offense under
17 this chapter, the court shall:



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(1) order:

(A) that the person be imprisoned for at least ten (10) days; or

(B) the person to perform at least sixty (60) days of community restitution; ~~or service~~; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has at least two (2) previous convictions of operating while intoxicated.

(c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence imposed under this section may not be suspended. The court may require that the person serve the term of imprisonment in an appropriate facility at whatever time or intervals (consecutive or intermittent) determined appropriate by the court. However:

(1) at least forty-eight (48) hours of the sentence must be served consecutively; and

(2) the entire sentence must be served within six (6) months after the date of sentencing.

(d) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a sentence imposed under this section.

SECTION 2. IC 11-12-1-2.5, AS AMENDED BY P.L.32-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter may include the following:

(1) Residential or work release programs.

(2) House arrest, home detention, and electronic monitoring programs.

(3) Community restitution ~~or service~~ programs.

(4) Victim-offender reconciliation programs.

(5) Jail services programs.

(6) Jail work crews.

(7) Community work crews.

(8) Juvenile detention alternative programs.

(9) Day reporting programs.

(10) Other community corrections programs approved by the department.

(b) The community corrections board may also coordinate and operate educational, mental health, drug or alcohol abuse counseling, housing, as a part of any of these programs, or supervision services for persons described in section 2 of this chapter.



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SECTION 3. IC 11-12-8-1, AS AMENDED BY P.L.32-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter, "community corrections program" means a community based program that provides preventive services, services to criminal or juvenile offenders, services to persons charged with a crime or an act of delinquency, services to persons diverted from the criminal or delinquency process, services to persons sentenced to imprisonment, or services to victims of crime or delinquency that may include the following:

- (1) Residential programs.
- (2) Work release programs.
- (3) House arrest, home detention, and electronic monitoring programs.
- (4) Community restitution ~~or service~~ programs.
- (5) Victim-offender reconciliation programs.
- (6) Jail services programs.
- (7) Jail work crews.
- (8) Community work crews.
- (9) Juvenile detention alternative programs.
- (10) Study release programs.

SECTION 4. IC 11-14-4-3, AS AMENDED BY P.L.32-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A transition officer to whom a boot camp graduate reports under section 1 of this chapter shall coordinate conditions of transition for the graduate with the probation department of the sentencing court, including the following:

- (1) Continued education.
- (2) Follow-up counseling.
- (3) Community restitution ~~or service~~ work.
- (4) Continuing drug and alcohol treatment intervention.
- (5) Activities designed to assist a boot camp graduate with reintegration into the community.

(b) A transition officer shall schedule personal contact with the graduate.

SECTION 5. IC 12-13-5-2, AS AMENDED BY P.L.32-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The division shall administer the following:

- (1) The Interstate Compact on the Placement of Children (IC 12-17-8).
- (2) Any sexual offense services.
- (3) A child development associate scholarship program.
- (4) Any school age dependent care program.



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- 1 (5) Migrant day care services.
- 2 (6) Any youth services programs.
- 3 (7) Project safe place.
- 4 (8) Prevention services to high risk youth.
- 5 (9) Any commodities program.
- 6 (10) The migrant nutrition program.
- 7 (11) Any emergency shelter programs.
- 8 (12) Any weatherization programs.
- 9 (13) The Housing Assistance Act of 1937 (42 U.S.C. 1437).
- 10 (14) The home visitation and social services program.
- 11 (15) The educational consultants program.
- 12 (16) Child abuse prevention programs.
- 13 (17) Community restitution ~~or service~~ programs.
- 14 (18) The crisis nursery program.
- 15 (19) Energy assistance programs.
- 16 (20) Domestic violence programs.
- 17 (21) Social services programs.
- 18 (22) Assistance to migrants and seasonal farmworkers.
- 19 (23) The step ahead comprehensive early childhood grant
- 20 program.
- 21 (24) Any other program:
- 22 (A) designated by the general assembly; or
- 23 (B) administered by the federal government under grants
- 24 consistent with the duties of the division.
- 25 SECTION 6. IC 15-5-1.1-15.1, AS AMENDED BY P.L.32-2000,
- 26 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2001]: Sec. 15.1. (a) The board may refuse to issue a
- 28 registration or may issue a probationary registration to an applicant for
- 29 registration as a veterinary technician under this chapter if:
- 30 (1) the applicant has been disciplined by a licensing entity of
- 31 another state or jurisdiction; and
- 32 (2) the violation for which the applicant was disciplined has a
- 33 direct bearing on the applicant's ability to competently practice as
- 34 a veterinary technician in Indiana.
- 35 (b) Whenever issuing a probationary registration under this section,
- 36 the board may impose any or a combination of the following
- 37 conditions:
- 38 (1) Report regularly to the board upon the matters that are the
- 39 basis of the discipline of the other state or jurisdiction.
- 40 (2) Limit practice to those areas prescribed by the board.
- 41 (3) Continue or renew professional education.
- 42 (4) Engage in community restitution ~~or service~~ without

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1 compensation for a number of hours specified by the board.

2 (c) The board shall remove any limitations placed on a probationary
3 registration issued under this section if the board finds after a hearing
4 that the deficiency that required disciplinary action has been remedied.

5 (d) This section does not apply to an individual who currently holds
6 a registration certificate under this chapter.

7 SECTION 7. IC 25-1-9-9, AS AMENDED BY P.L.32-2000,
8 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2001]: Sec. 9. (a) The board may impose any of the following
10 sanctions, singly or in combination, if it finds that a practitioner is
11 subject to disciplinary sanctions under section 4, 5, 6, or 6.7 of this
12 chapter or IC 25-1-5-4:

13 (1) Permanently revoke a practitioner's license.

14 (2) Suspend a practitioner's license.

15 (3) Censure a practitioner.

16 (4) Issue a letter of reprimand.

17 (5) Place a practitioner on probation status and require the
18 practitioner to:

19 (A) report regularly to the board upon the matters that are the
20 basis of probation;

21 (B) limit practice to those areas prescribed by the board;

22 (C) continue or renew professional education under a
23 preceptor, or as otherwise directed or approved by the board,
24 until a satisfactory degree of skill has been attained in those
25 areas that are the basis of the probation; or

26 (D) perform or refrain from performing any acts, including
27 community restitution ~~or service~~ without compensation, that
28 the board considers appropriate to the public interest or to the
29 rehabilitation or treatment of the practitioner.

30 (6) Assess a fine against the practitioner in an amount not to
31 exceed one thousand dollars (\$1,000) for each violation listed in
32 section 4 of this chapter, except for a finding of incompetency due
33 to a physical or mental disability. When imposing a fine, the
34 board shall consider a practitioner's ability to pay the amount
35 assessed. If the practitioner fails to pay the fine within the time
36 specified by the board, the board may suspend the practitioner's
37 license without additional proceedings. However, a suspension
38 may not be imposed if the sole basis for the suspension is the
39 practitioner's inability to pay a fine.

40 (b) The board may withdraw or modify the probation under
41 subsection (a)(5) if it finds, after a hearing, that the deficiency that
42 required disciplinary action has been remedied, or that changed

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circumstances warrant a modification of the order.

SECTION 8. IC 25-1-9-16, AS AMENDED BY P.L.32-2000, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

- (1) the applicant has been disciplined by a licensing entity of another state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and
- (2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community restitution ~~or service~~ without compensation for a number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

SECTION 9. IC 25-1-11-12, AS AMENDED BY P.L.32-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education approved by the



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board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution ~~or service~~ without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

SECTION 10. IC 25-22.5-5-2.5, AS AMENDED BY P.L.32-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.5. (a) The board may:

- (1) refuse to issue a license;
- (2) issue an unlimited license; or
- (3) issue a probationary license to an applicant for licensure by examination or endorsement;

if the applicant has had a license revoked under this chapter and is applying for a new license after the expiration of the period prescribed by IC 25-1-9-12.

(b) When issuing a probationary license under this section, the board may require the individual holding the license to perform any of the following acts as a condition for the issuance of a probationary license:

- (1) Submit a regular report to the board concerning matters that are the basis of probation.
- (2) Limit the practice of the individual to the areas prescribed by the board.
- (3) Continue or renew the individual's professional education.
- (4) Perform or refrain from performing acts, as the board considers appropriate to the public interest or the rehabilitation of

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the individual.

(5) Engage in community restitution ~~or service~~ without compensation for a number of hours specified by the board.

(6) Any combination of these conditions.

(c) If the board determines following a hearing that the deficiency requiring disciplinary action concerning the individual has been remedied, the board shall remove any limitation placed on the individual's license under subsection (b).

SECTION 11. IC 25-23.5-5-8, AS AMENDED BY P.L.32-2000, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) If the committee issues a probationary certificate under section 7 of this chapter, the committee may require the person who holds the certificate to perform one (1) or more of the following conditions:

(1) Report regularly to the committee upon a matter that is the basis for the probation.

(2) Limit practice to areas prescribed by the committee.

(3) Continue or renew professional education.

(4) Engage in community restitution ~~or service~~ without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a probationary certificate if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 12. IC 25-27.5-4-3, AS AMENDED BY P.L.32-2000, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) If the committee issues a probationary certificate under section 2 of this chapter, the committee may require the individual who holds the certificate to meet at least one (1) of the following conditions:

(1) Report regularly to the committee upon a matter that is the basis for the probation.

(2) Limit practice to areas prescribed by the committee.

(3) Continue or renew professional education.

(4) Engage in community restitution ~~or service~~ without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a probationary certificate if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 13. IC 31-14-12-3, AS AMENDED BY P.L.32-2000, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court

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1 may find the party in contempt of court.

2 (b) The court may order a party who is found in contempt of court
3 under this section to perform community restitution ~~or service~~ without
4 compensation in a manner specified by the court.

5 SECTION 14. IC 31-14-15-4, AS AMENDED BY P.L.32-2000,
6 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2001]: Sec. 4. A court that finds a violation without justifiable
8 cause by a custodial parent of an injunction or a temporary restraining
9 order issued under this chapter (or IC 31-6-6.1-12.1 before its repeal):

10 (1) shall find the custodial parent in contempt of court;

11 (2) shall order the exercise of visitation that was not exercised due
12 to the violation under this section (or IC 31-6-6.1-12.1(e) before
13 its repeal) at a time the court considers compatible with the
14 schedules of the noncustodial parent and the child;

15 (3) may order payment by the custodial parent of reasonable
16 attorney's fees, costs, and expenses to the noncustodial parent;
17 and

18 (4) may order the custodial parent to perform community
19 restitution ~~or service~~ without compensation in a manner specified
20 by the court.

21 SECTION 15. IC 31-16-12-6, AS AMENDED BY P.L.32-2000,
22 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2001]: Sec. 6. If the court finds that a party is delinquent as a
24 result of an intentional violation of an order for support, the court may
25 find the party in contempt of court. The court may order a party who is
26 found in contempt of court under this section to perform community
27 restitution ~~or service~~ without compensation in a manner specified by
28 the court.

29 SECTION 16. IC 31-17-4-8, AS AMENDED BY P.L.32-2000,
30 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2001]: Sec. 8. A court that finds an intentional violation
32 without justifiable cause by a custodial parent of an injunction or a
33 temporary restraining order issued under this chapter (or
34 IC 31-1-11.5-26 before its repeal):

35 (1) shall find the custodial parent in contempt of court;

36 (2) shall order the exercise of visitation that was not exercised due
37 to the violation under this section at a time the court considers
38 compatible with the schedules of the noncustodial parent and the
39 child;

40 (3) may order payment by the custodial parent of reasonable
41 attorney's fees, costs, and expenses to the noncustodial parent;
42 and

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(4) may order the custodial parent to perform community restitution ~~or service~~ without compensation in a manner specified by the court.

SECTION 17. IC 31-37-19-5, AS AMENDED BY P.L.32-2000, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the court shall, after a determination under IC 5-2-12-4(3), require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4(1) if committed by an adult to register with a local law enforcement authority under IC 5-2-12.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution ~~or service~~ for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 18. IC 35-38-2.5-6, AS AMENDED BY P.L.32-2000, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

(1) A requirement that the offender be confined to the offender's home at all times except when the offender is:

(A) working at employment approved by the court or traveling

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- 1 to or from approved employment;
 2 (B) unemployed and seeking employment approved for the
 3 offender by the court;
 4 (C) undergoing medical, psychiatric, mental health treatment,
 5 counseling, or other treatment programs approved for the
 6 offender by the court;
 7 (D) attending an educational institution or a program approved
 8 for the offender by the court;
 9 (E) attending a regularly scheduled religious service at a place
 10 of worship; or
 11 (F) participating in a community work release or community
 12 restitution or service program approved for the offender by the
 13 court.
- 14 (2) Notice to the offender that violation of the order for home
 15 detention may subject the offender to prosecution for the crime of
 16 escape under IC 35-44-3-5.
- 17 (3) A requirement that the offender abide by a schedule prepared
 18 by the probation department, or by a community corrections
 19 program ordered to provide supervision of the offender's home
 20 detention, specifically setting forth the times when the offender
 21 may be absent from the offender's home and the locations the
 22 offender is allowed to be during the scheduled absences.
- 23 (4) A requirement that the offender is not to commit another
 24 crime during the period of home detention ordered by the court.
- 25 (5) A requirement that the offender obtain approval from the
 26 probation department or from a community corrections program
 27 ordered to provide supervision of the offender's home detention
 28 before the offender changes residence or the schedule described
 29 in subdivision (3).
- 30 (6) A requirement that the offender maintain:
 31 (A) a working telephone in the offender's home; and
 32 (B) if ordered by the court, a monitoring device in the
 33 offender's home or on the offender's person, or both.
- 34 (7) A requirement that the offender pay a home detention fee set
 35 by the court in addition to the probation user's fee required under
 36 IC 35-38-2-1 or IC 31-40. However, the fee set under this
 37 subdivision may not exceed the maximum fee specified by the
 38 department of correction under IC 11-12-2-12.
- 39 (8) A requirement that the offender abide by other conditions of
 40 probation set by the court under IC 35-38-2-2.3.
- 41 SECTION 19. IC 35-41-1-4.6, AS ADDED BY P.L.32-2000,
 42 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2001]: Sec. 4.6. "Community restitution" ~~or service~~ means performance of services directly for a:

- (1) victim;
- (2) nonprofit entity; or
- (3) governmental entity;

without compensation, including graffiti abatement, park maintenance, and other community service activities. The term does not include the reimbursement under IC 35-50-5-3 or another law of damages or expenses incurred by a victim or another person as the result of a violation of law.

SECTION 20. IC 36-10-2-4, AS AMENDED BY P.L.32-2000, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. A unit may establish, aid, maintain, and operate libraries and museums, cultural, historical, and scientific facilities and programs, and community restitution ~~or service~~ facilities and programs.

SECTION 21. [EFFECTIVE JULY 1, 2001] **(a) A court order issued before July 1, 2001, that requires a person to perform:**

- (1) community restitution or service; or**
- (2) community service;**

shall be considered to be a court order that requires the person to perform community restitution.

(b) This SECTION expires July 1, 2006.

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